

E-FILED MARCH 26, 2007

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Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

In re:
 USA SECURITIES, LLC,
 Debtor.

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC

Case Nos. BK-S-06-10725 LBR
 Case Nos. BK-S-06-10726 LBR
 Case Nos. BK-S-06-10727 LBR
 Case Nos. BK-S-06-10728 LBR
 Case Nos. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
 Case No. BK-S-06-10725 LBR

**NOTICE OF ENTRY OF
 ORDER DENYING
 (1) EMERGENCY EX PARTE
 MOTION FOR CONTINUANCE
 OF HEARING, AND
 (2) MOTION FOR LIMITED
 STAY PENDING APPEAL AND
 CERTIFICATE OF SERVICE**

**Hearing Date: March 1, 2007
 Hearing Time: 9:30 a.m. PST**

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NOTICE IS HEREBY GIVEN that an Order Denying (1) Emergency *Ex Parte* Motion for Continuance of Hearing, and (2) Motion for Limited Stay Pending Appeal was entered on the 22nd day of March, 2007. A copy of said Order is attached hereto.

DATED this 26th day of March, 2007.

/s/ Jeanette E. McPherson

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CERTIFICATE OF SERVICE

1. On March 26, 2007 I served the following document(s):

a. Notice of Entry of Order Denying (1) Emergency *Ex Parte* Motion for Continuance of Hearing, and (2) Motion for Limited Stay Pending Appeal

2. I served the above-named document(s) by the following means to the persons as listed below:

☒ a. **By ECF System:**

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P:\USA Commercial Mortgage\Plan of Reorganization\Appeal\LPG\NEO and COS Order Denying Mtn Stay.DOC

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PAUSA Commercial Mortgage\Plan of Reorganization\Appeal\LPG\NEO and COS Order Denying Mtn Stay.DOC

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12 ☐ b. **By United States mail, postage fully prepaid:**

13
14 ☐ c. **By Personal Service**

15 I personally delivered the document(s) to the persons at these addresses:

16 ☐ For a party represented by an attorney, delivery was made by handing the
document(s) to the attorney or by leaving the document(s) at the attorney's office with a clerk or
17 other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place
in the office.

18 ☐ For a party, delivery was made by handing the document(s) to the party or by
leaving the document(s) at the person's dwelling house or usual place of abode with someone of
19 suitable age and discretion residing there.

20 ☐ d. **By direct email (as opposed to through the ECF System)**

21 Based upon the written agreement to accept service by email or a court order, I
caused the document(s) to be sent to the persons at the email addresses listed below. I did not
22 receive, within a reasonable time after the transmission, any electronic message or other indication
that the transmission was unsuccessful.

23 ☐ e. **By fax transmission**

24 Based upon the written agreement of the parties to accept service by fax
transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed
25 below. No error was reported by the fax machine that I used. A copy of the record of the fax
transmission is attached.

26
27 ☐ f. **By messenger**

28 I served the document(s) by placing them in an envelope or package addressed to
the persons at the addresses listed below and providing them to a messenger for service.

1 **I declare under penalty of perjury that the foregoing is true and correct.**

2 Signed on: March 26, 2007

3 SARAH ARNOLD

/s/ SARAH ARNOLD

4 (Name of Declarant)

(Signature of Declarant)

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Entered on Docket
March 22, 2007

Hon. Linda B. Riegler
United States Bankruptcy Judge

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Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

In re:
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In re:
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FUND, LLC,
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In re:
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Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
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- ☐ USA Capital First Trust Deed Fund, LLC

Case Nos. BK-S-06-10725 LBR
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Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

**ORDER DENYING
(1) EMERGENCY EX PARTE
MOTION FOR CONTINUANCE
OF HEARING, AND
(2) MOTION FOR LIMITED
STAY PENDING APPEAL**

**Hearing Date: March 1, 2007
Hearing Time: 9:30 a.m. PST**

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The matters before the Court are: (1) a Motion for Limited Stay Pending Appeal [Docket No. 2848] (“Motion for Stay”), and (2) an Emergency *Ex Parte* Motion for Continuance of Hearing on the Motion for Stay [Docket No. 2925] (“Motion for Continuance”) both of which were filed on behalf of the “Lenders Protection Group” (“LPG”) and the Charles B. Anderson Trust, Rita P. Anderson Trust, Blates Company, Kehl Family Members and Mojave Canyon, Inc. (“Jones Vargas Direct Lenders”) (collectively, the “Appellants”). Pursuant to the Order Shortening Time Regarding Appellants’ Motion for Stay Pending Appeal [Docket No. 2878], entered at the request of the Appellants [Docket Nos. 2849-2855], a hearing on the Appellants’ Motion for Stay was held on March 1, 2007, at which time the Appellants’ Motion for Continuance was also considered by the Court. Kevin A. Darby of The Law Offices of Alan Smith appeared on behalf of LPG; Janet L. Chubb of Jones Vargas appeared on behalf of the Jones Vargas Direct Lenders; Annette W. Jarvis of Ray Quinney & Nebeker, P.C. and Lenard E. Schwartzer of Schwartzer & McPherson Law Firm appeared on behalf of the Debtors, USA Commercial Mortgage Company, USA Capital First Trust Deed Fund, LLC, USA Capital Diversified Trust Deed Fund, LLC, USA Capital Realty Advisors, LLC, and USA Securities, LLC (collectively, the “Debtors”); Susan M. Freeman and Robert M. Charles of Lewis and Roca, LLP appeared on behalf of the Official Unsecured Creditors’ Committee for USA Commercial Mortgage Company (“USACM Committee”); Frank A. Merola and Eve H. Karasik of Stutman, Treister & Glatt, P.C. appeared on behalf of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (“FTDF Committee”); Jeffrey D. Hermann of Orrick, Herrington & Sutcliffe LLP appeared on behalf of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC; and Gregory E. Garman of Gordon & Silver, Ltd. appeared on behalf of Official Committee of Holders of Executory Contracts Rights through USA Commercial Mortgage Company.

The Court has reviewed the Motion for Stay, the Motion for Continuance; the Declaration of Kevin A. Darby filed in support of the Motion for Continuance [Docket No. 2926]; the Debtors’ Opposition to Motion for Limited Stay Pending Appeal and the Exhibits attached thereto [Docket No. 2915] (“Debtors’ Opposition”); the Declaration of Susan M. Smith filed in support of

the Debtors' Opposition [Docket No. 2916]; the Joinder in the Debtors' Opposition filed by the USACM Committee [Docket No. 2929]; the Opposition to the Motion for Stay and Joinder in Debtors' Opposition filed by the FTDF Committee [Docket No. 2917]; and the nine Declarations that were filed by LPG just prior to the hearing in support of the Motion for Stay [Docket Nos. 2931-2939] (collectively, the "Pre-Hearing Declarations"). During the hearing, LPG filed twenty-one additional Declarations in support of the Motion for Stay [Docket Nos. 2940-2961] (together with the Pre-Hearing Declarations, the "LPG Declarations"). Based on a review of all of these documents and the applicable law, for the reasons stated by the Court on the record as its findings of fact and conclusions of law, which are incorporated herein by reference, and for good cause showing,

IT IS HEREBY ORDERED that:

- (1) The Motion for Continuance is DENIED;
- (2) The LPG Declarations are STRICKEN; and
- (3) The Motion for Stay is DENIED.

Submitted by:
RAY QUINNEY & NEBEKER P.C.
and SCHWARTZER & MCPHERSON LAW
FIRM

Approved/Disapproved by:
LAW OFFICES OF ALAN R. SMITH
and JONES VARGAS

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Counsel for Debtors

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Approved/Disapproved by:
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By: /s/ Gerald M. Gordon
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*Counsel for the Official Committee of
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USA Commercial Mortgage Company*

**ORDER DENYING (1) EMERGENCY EX PARTE MOTION FOR CONTINUANCE
OF HEARING, AND (2) MOTION FOR LIMITED STAY PENDING APPEAL**

Approved/Disapproved by:
ORRICK, HERRINGTON & SUTCLIFFE LLP
and BECKLEY SINGLETON, CHTD.

Approved/Disapproved by:
STUTMAN TREISTER & GLATT, P.C. and
SHEA & CARLYON, LTD.

By: /s/ Marc A. Levinson
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JEFFERY HERMANN ESQ.
BOB L. OLSON, ESQ.
ANNE M. LORADITCH, ESQ.
*Counsel for the Official Committee of
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By: /s/ Eve Karasik
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CHRISTINE PAJAK, ESQ.
CANDACE C. CARLYON, ESQ.
*Counsel for the Official Committee of
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First Trust Deed Fund LLC*

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

☐ The court has waived the requirement of approval under LR 9021.

☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.

☒ On March 15, 2007 I delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

Failed to respond: LAW OFFICES OF ALAN R. SMITH and JONES VARGAS

###

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